

The Political Psychology of Redistribution by Edward McCaffery

Comments by William Blatt

Thanks to the UCLA Law Review for the opportunity to participate in this symposium, and especially the opportunity to meet Ed McCaffery.

I have long admired his works, among them his article on Cognitive Theory and Tax, presented at a UCLA Law Review symposium eleven years ago. That article probed cognitive theory, in part in the hope that such theory could "bring popular, democratic input to bear on questions of ideal tax policy and design." This theme is missing from today's paper. My hope is to bring Ed back to this larger project. The subtitle of my talk is "Come home, Ed McCaffery." This is not to be confused with the advice of UCLA football fans, which is to "Go home, Ed McCaffery."

Today I will situate Ed's paper in the larger legal and political science literature. First, I will describe the contribution of the current paper: its use of political psychology to critique neoclassical economics and the legislative process. Second, I will discuss the potentially far more important contribution of political psychology, one only hinted at in the paper: using political psychology to identify popular preferences.

I. The Critical Use of Political Psychology.

A. Description of Cognitive Error.

Let me start with a quick description of the current paper. That paper describes a series of experiments that reveal common cognitive errors in thinking about redistribution. To generalize, many of these involve framing effects. An individual's reaction to progressivity

differs depending on apparently purely formal ways in which the question is put. These reactions are based on cognitive shortcuts people use to resolve everyday problems. The rub is that in the complicated world of public finance, these shortcuts often lead to inconsistent answers.

B. Neoclassical Economics.

The paper's most immediate impact is critical. It undermines commonly held assumptions about tax policy and process. First, it provides a powerful critique of the neoclassical economics agenda.

This agenda is two-fold. First, positive laws should be arranged to maximize social welfare (efficiency). Second, distributional issues (equity) should be addressed through the tax system. This agenda assumes a stark distinction between allocative and redistributive

functions of government.

Ed's work undermines this agenda. First, he shows how cognitive biases undermine efficiency. For example, the bias favoring hidden taxes leads people to endorse the corporate income tax. Second, he shows how cognitive bias undermines fairness. Psychically pleasing taxes are not as progressive as people wish. Finally, and most importantly, he shows that people do not separate allocative from redistributive. The privatization effect shows when faced with spending cuts, people make inadequate adjustments in taxes to retain a constant level of progressivity. I think that this third finding is original and very troubling for neoclassical economists.

C. Legislative Process.

The paper also contains an important critique of the tax

legislative process, one which deepens criticisms made in the political science literature. Political scientists have long observed the irrationality of a committee structure that separates spending from taxes. They have also shown that concentrated economic interests are overrepresented in the political system. The public at large simply lacks the incentive to even learn about the issues. This critique leads many political scientists to advocate budgetary rules like as Graham-Rudman, pay-as-you-go, and balanced budget amendments. Such rules integrate spending and tax functions and reduce the influence of organized interest groups by pitting concrete their requests against one another.

Ed's paper adds a critical dimension to this picture. It sheds additional light on the legislative process. Take, for example, the existence of the corporate tax. The political science literature attributes the persistence of the double tax to agency problems.

Corporate managers benefit from retained earnings and shareholders are too diffuse to organize. But agency costs don't explain why Congress enacted the corporate tax in the first place. Political psychology can.

At the same time, political psychology reinforces the conventional critique. It provides additional reason to be skeptical of using public education to improve the legislative process. Not only do people lack time to learn about economics, public finance often runs counter to intuitive rules of thumb. Furthermore, political psychology provides an additional reason for adopting budgetary rules.

Such rules reduce cognitive error by making spending and taxes comparable -- either both abstract or both concrete.

Overall, the paper darkens an already bleak assessment of the political process. It suggests that even if we could devise a system

that perfectly mirrored popular preferences, we would have an irrational product. The paper's description of political psychology predicts instability in private preferences and a political system that rewards style over substance, encouraging political manipulation.

II. Positive Use of Political Psychology.

This critique is a valuable contribution, but I think that political psychology can do more -- it can furnish positive evidence of normative values. We do, after all, live in a democracy. Academics are not philosopher kings; part of our role is to understand popular preferences.

A. McCaffery's Normative Conclusions.

Occasionally, Ed seems to make assertions about popular

preferences. He states that tax system is not as progressive as "people would want in the abstract." He describes the Republican strategy of shrinking government without making distributional adjustments as leading to less redistribution than "the people wanted."

These statements, if meant as claims about popular preferences, exceed his evidence. The experiments only show inconsistent answers when posed in different contexts. People react differently depending on whether the issue is posed in the abstract or in the particular, or when viewed alone or in conjunction with other taxes and spending, or when posed as a percentage or an absolute number. The experiments only show that framing changes the answer, they don't indicate the one frame is more "real."

Let me give an example. Before having children, I agreed that I would share child care "equally" with my wife. This abstract

commitment is very different than one made by when faced by breastfeedings, dirty diapers, sleep deprivation and mounds of laundry.

It is not at all clear which situation revealed my real preferences.

Nor does policy necessarily privilege one frame over another.

Admittedly, the code uses percentages, but that is a matter of convenience. Returns report actual numbers. Whose to say which is "right?" Neither does policy dictate and optimal mix of taxes or balance between taxes and spending. As we saw in the history panel, some economists look to a single tax, others to a system of taxes.

B. A Thicker Account.

The fundamental problem here is that the experiments by themselves

contain a thin account of human rationality. They leave out a lot.

They reveal pervasive bias against the income tax, but provide no account of why we originally enacted that tax.

Generating normative conclusions from political psychology requires a deeper account of human rationality than that contained in the paper. We need to map the cognitive shortcuts that underlie the errors. One possibility is the use of idealized cognitive models, as described by George Lakoff. These are relatively simple, culturally constructed models sedimented in history.

Generating normative conclusions also requires broadening our potential tax policy goals. It is by no means clear that we can separate allocation from distribution. Money is not necessarily fungible. It also has a social meaning, and tax rules like other legal rules can express values.

C. Two Examples.

A deepened account of human rationality and a broadened sense of tax policy requires rethinking some of Ed's background normative assumptions. Lurking in the paper is the assumption that both payroll taxes and the corporate income tax are psychologically pleasing but ultimately irrational. Indeed, Ed's most optimistic thought is that international tax competition will curb growth in the corporate tax.

A deeper theory of human rationality, however, puts both taxes in a different light.

1. The Corporate Tax.

Let's start with the corporate tax. That tax is attractive not simply because it is hidden. It is also rooted in deeply held

fears of concentrated wealth, a cognitive model deeply rooted in America' past. The legislative history of the corporate tax showed great concern with excessive corporate power. Reuven has argued that one can justify the tax as curbing the power of corporate management.

If so, tax competition is to be condemned, not applauded.

2. Payroll Taxes.

Next, consider payroll taxes. Why are these taxes viewed differently from income taxes? Lurking in the background is understanding that the proceeds will be used to benefit the particular employee. They are essentially fees. The cognitive model here is of an exchange for value. By contrast, the cognitive model underlying taxes is destruction. As lawyers, we all know that "The power to tax is the power to destroy."

Now, any economist will tell you that money is fungible and that there is no distinction between taxes and fees, but there are other views. Some think that property not as a creation of the state, but as a priori to the state. As shown in earlier panels, benefit theory is no cognitive error. User fees rest on a different moral ground than taxes.